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September 3, 1980

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DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY CMacc DATE 10/4/84
RDS or XDS EXT. DATE
TS AUTH. REASON(S)
ENDORSE EXISTING MARKINGS
DECLASSIFIED RELEASABLE
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PA or FOI EXEMPTIONS

TO: The Deputy Secretary

FROM: L - Roberts B. Owen

Declarations for Your Signature In Iranian Cases

At Tabs 1 and 2 are two declarations for your signature in connection with the Iranian domestic litigation. The first declaration is for filing in Islamic Republic of Iran v. Pahlevi (Sup. Ct. N.Y. Co.), Iran's suit to recover $56 billion in governmental funds allegedly misappropriated by the Shah during his rule. By previous action memorandum (Tab 3) you authorized seeking a stay of this lawsuit, and the declaration at Tab 1 would be filed in support of the Government's request for a stay. Since the declaration contains classified paragraphs, we would file it only on condition that it be kept under seal.

The declaration at Tab 2 is a follow-up to the Government's previous filings in New England Merchants National Bank v. Iran Power Generation and Transmission Co. (D. Mass.). You will recall that in this as in the other 290 cases in which Iran is a defendant, the Government's submission included the proffer of your classified affidavit to be filed under seal. In the Massachusetts case Judge Keeton indicated that he would not accept this proffer, in part because he questioned whether the Deputy Secretary of State was authorized to speak and act on behalf of the President in matters concerning the Iranian crisis. The Justice Department believes that our chances of persuading Judge Keeton to grant the stay will be increased if we are able to file the declaration attached at Tab 2.

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Recommendation:

That you sign the two declarations.

Attachments:

Tab 1 - Declaration for Shah Case.
Tab 2 - Declaration for Massachusetts Case.

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Clearance: NEA/IWG - Mr. Sens

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DECLARATION OF
WARREN CHRISTOPHER

I, Warren Christopher, declare as follows:

1. (U) I am the Deputy Secretary of State of the United States. In this capacity, I have been closely involved in the process of formulating the United States response to the current crisis in Iran, in consultation with the Secretary of State and other senior Administration officials.

2. (U) It is my understanding that there is presently pending in the Supreme Court, New York County, a suit brought by the Government of Iran alleging misappropriation of Iranian state funds by the Shah of Iran during his time in power and seeking $16 billion in damages (Islamic Republic of Iran v. Pahlevi, No. 22013/79). It is my judgment that any substantive judicial rulings in this suit at this time would create a serious risk of prejudicing the continuing efforts of the United States Government to resolve the hostage crisis.

3. (U) Since the beginning of the crisis Iran has linked the issue of the recovery of the Shah's allegedly misappropriated fortune to the release of the hostages. The student militants holding the United States Embassy, and from time to time various Iranian

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officials, have insisted that return of the Shah's wealth to Iran is a precondition to the return of the hostages to the United States. The United States Government has noted the pendency of Iran's lawsuit to recover these funds, but has not taken any position on the issues involved in the suit.

4. (U) The current period is a particularly delicate and critical one for Iran and for the American hostages. New institutions of the Islamic Republic are presently taking shape. The Revolutionary Council has been officially dissolved and its legislative responsibilities assigned to the new Parliament. This body has been delegated responsibility for deciding upon the fate of the hostages. On July 18, the Parliament selected six jurists to serve with six previously selected religious leaders on the Council of Guardians, the body charged with reviewing all laws and decrees issuing from the legislative and executive branches of the Government of Iran to assure their conformity with the tenets of Islam. On July 20, the Parliament elected a Speaker, and on the following day it elected several subordinate officials. The President, the Chief Justice of the Supreme Court and other members of the government

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took the oath of office on July 22. On or about August 9 President Bani-Sadr named Mohammad Ali Rajai to be Iran's Prime Minister. The Parliament approved that nomination shortly thereafter, and formal appointment took place on August 20. Prime Minister Rajai has designated a new Cabinet, which according to the Iranian Constitution must be approved both by Parliament and by the President.

5. (U) With these important government institutions in place, the Iranian Parliament is expected to address the question of the hostages. It has been reported that the new Prime Minister will submit to the Parliament a report which will form the basis for debate and decision by the Parliament. These events could take place in the next several months.

6. (U) The death of the former Shah of Iran on July 27 is another new factor potentially affecting the situation in Iran. It is not clear whether this development will change the mix of considerations which have heretofore prevented the release of the hostages.

7. (C) During this sensitive period, any substantive rulings in the pending proceedings, whether favorable or adverse to Iran, create a serious risk for our efforts to free the hostages. A decision against Iran in a matter of extreme political importance to Iran, vitally

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lized in the minds of many Iranians as a repudiation of the hostage efforts and involving very substantial sums of money, could have a severe impact on the political atmosphere in Iran at the very time when the fate of the hostages is to be debated and decided. A perceived United States rejection of a principal Iranian concern could increase pressures within the Iranian Parliament to try the hostages for espionage or to establish onerous conditions for their release. To avoid a negative effect on the Parliament's deliberations, the Government is seeking to avoid provocative actions which could create an adverse atmosphere in Tehran. An unfavorable court decision could thus have serious negative consequences for the prospects of the hostages' release.

8. (C) Conversely, a decision in these proceedings in favor of Iran might be construed in Iran as an indication that the United States is prepared to yield to Iranian demands in order to achieve the release of the hostages. This might encourage Iran to press further its demand for return of the Shah's fortune as well as other demands, such as a lifting of the freeze on Iranian assets or the convening of a tribunal to hear claims against the hostages or against the United States.

9. (C) For all of the above reasons, it is my conviction that a stay of these proceedings would best

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serve the foreign relations interests of the United States.

I declare, under penalty of perjury, that the foregoing is true and correct.

/s/
Warren Christopher

Executed on September 3, 1980.

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I, Warren Christopher, declare as follows:

1. I am the Deputy Secretary of State of the United States, having held that position since January 20, 1977.

2. The Deputy Secretary is the second ranking official in the Department of State and acts as alter ego to the Secretary. The functions of the Deputy Secretary are defined in Department regulations contained in section 120 of the Foreign Affairs Manual, a copy of which is attached.

3. In my role as Deputy Secretary I have been responsible for continuously monitoring developments in Iran, advising the Secretary and the President concerning the Iranian situation, and making and implementing policy decisions under the authority of the Secretary and the President.

4. Interagency coordination concerning the Iranian situation has been effected through the Special Coordinating Committee of the National Security Council ("SCC"). The SCC was established by Presidential Directive/NSC-2, a copy of which is attached. In recent months the SCC has met on a regular basis, often several times a week, to review the Iranian situation and to coordinate the development and implementation of policy concerning Iran. The Committee reports the outcome of its deliberations to the President, and receives and executes instructions from the President.

5. One item of SCC concern has been the litigation involving claims against Iran and the assets of the Government of Iran blocked pursuant to Executive Order 12170.

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final in the hands of Iranians, to a resolution of the hostage crisis and involving very substantial sums of money, could have a severe impact on the political atmosphere in Iran at the very time when the fate of the hostages is to be debated and decided. A perceived United States rejection of a principal Iranian concern could increase pressures within the Iranian Parliament to try the hostages for espionage or to establish onerous conditions for their release. To avoid a negative effect on the Parliament's deliberations, the Government is seeking to avoid provocative actions which could create an adverse atmosphere in Tehran. An unfavorable court decision could thus have serious negative consequences for the prospects of the hostages' release.

8. (C) Conversely, a decision in these proceedings in favor of Iran might be construed in Iran as an indication that the United States is prepared to yield to Iranian demands in order to achieve the release of the hostages. This might encourage Iran to press further its demand for return of the Shah's fortune as well as other demands, such as a lifting of the freeze on Iranian assets or the convening of a tribunal to hear claims against the hostages or against the United States.

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5. One item of SCC concern has been the litigation involving claims against Iran and the assets of the Government of Iran blocked pursuant to Executive Order 12170.

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[illegible] of State, have given the [illegible] Court's judgments [illegible] affect the [illegible] of the Contadora and other United States foreign policy [illegible]. The SCC has kept the President advised of its deliberations and decisions concerning the litigation. In particular, it informed the President of its decision to [illegible] proceedings involving claims against Iran.

I declare, under penalty of perjury, that the foregoing is true and correct.

/s/

Warren Christopher

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Clearances: NSC - Capt. Sick (S/D)
Justice - Mr. Steinberg (S/D)
NEA/IWG - Mr. Sens (S/D)

Executed on September 3, 1980